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In re Application of :
WILCKENS *et al* :
U.S. Application No.: 10/572,795 :
PCT No.: PCT/EP2004/010582 :
Int. Filing Date: 21 September 2004 :
Priority Date: 22 September 2003 :
Docket No.: 3724-101 :
For: PREVENTION AND TREATMENT OF :
INFLAMMATION-INDUCED AND/OR :
IMMUNE-MEDIATED BONE LOSS :

DECISION

This is a decision on the request to add Ariane Volkmann as an inventor in the above-captioned application filed on 09 October 2008. This request is treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 14 April 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) stating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee were required. Applicants were given two months to respond with extensions of time available.

On 09 October 2008, applicants filed a response which was accompanied by, *inter alia*, a request to add an inventor, a \$130.00 processing fee, a four-month extension and fee, a statement by Ariane Volkmann, a written consent of the assignee along with copies of the assignment.

On 20 August 2009, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned for failing to respond to the Form PCT/DO/EO/905 mailed 14 April 2008.

DISCUSSION

Applicants timely responded to the Form PCT/DO/EO/905 with the response filed 09 October 2008.

Accordingly, the Form PCT/DO/EO/909 mailed 20 August 2009 was sent in error, and is hereby **VACATED**.

37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(l); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Applicants filed the requisite statement by Mr. Volkmann. The processing fee of \$130.00 has been paid. Applicants also submitted a consent of assignee signed by the CEO of Onepharm Research and Development GmbH who states that he has the authority to act on behalf of the assignee. A copy of the executed assignment was also provided. Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request to add an inventor under 37 CFR 1.497(d) is GRANTED.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 21 September 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 09 October 2008.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.


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